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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,067	09/12/2005	Michael E Kasten JR.	018778-9026-US01	8571
1131 7590 01/03/2007 MICHAEL BEST & FRIEDRICH LLP Two Prudential Plaza 180 North Stetson Avenue, Suite 2000 CHICAGO, IL 60601			EXAMINER PICO, ERIC E	
			ART UNIT 3654	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/502,067

Applicant(s)

KASTEN ET AL.

Examiner

Eric Pico

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "28" in Figure 1 and "78" in Figure 2 have both been used to designate bumpers. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim(s) 1 and 11 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. **Regarding claims 1 and 11**, it unclear and indefinite how the motive source is capable of continuing movement of the arm regardless of the current path state once movement is initiated because the destruction of the current path during movement would prevent movement of the arm. The office will interpret claim 1 to read the motive source is capable of continuing movement of the arm.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1, 7, 9, 11, and 13 rejected under 35 U.S.C. 102(b) as being anticipated by Tremblay U.S. Patent No. 5373915.

7. **Regarding claim 1**, Tremblay discloses an assembly capable of moving a passenger from a first surface to an adjacent second surface wherein the surfaces are located at different vertical levels, the assembly comprising: an electrical system, shown in Figure 5; a platform, referred to as lift surface 30, moveable to transport the passenger between the surfaces, the platform 30 having an inboard end, an outboard end, and two opposing sides, the inboard end closer to the first surface than the outboard end; an arm, referred to armature 36, 37, coupled to the platform 30 and to the first surface, the arm 36, 37 moveable to transfer the platform 30 between the surfaces; a passenger support, referred to as handrail 60, 62, located above the platform 30; a

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safety restraint system coupled to the passenger support 60, 62, the safety restraint system comprising: a belt, referred to as flexible strap 68, coupled to the passenger support 62 in a first location; a buckle 64 releasably engagable with the belt 68 and coupled to the passenger support 60 in a second location, the buckle 74 having a current path coupled to the electrical system, shown in Figure 5, the current path having an open state and a closed state defined in part upon the releasable engagement between the buckle 64 and the belt 68, the current path closed upon engagement between the buckle 64 and the belt 68; and a motive source coupled to the electrical system and operable to move the arm 36, 37, the motive source incapable of initiating movement of the arm 36, 37 when the current path is open and capable of initiating movement when the current path is closed, the motive source capable of continuing movement of the arm 36, 37.

8. **Regarding claim 7**, Tremblay discloses a hydraulic pump 93 in fluid communication with a hydraulic cylinder 24 coupled to the arm

9. **Regarding claim 9**, Tremblay discloses the safety restraint system further comprises a lock, referred to as tab 70, coupled to the buckle 64 and the belt 68, the lock preventing disengagement between the belt 68 and the buckle 64 during movement of the platform 30.

10. **Regarding claim 11**, Tremblay discloses a safety restraint system usable with an electrically operated lift system, the safety restraint system comprising: a belt 68; and a buckle 74 releasably engagable with the belt 68 and having a current path coupled to the electrically operated lift system, the current path having an open state and a closed

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state defined in part upon the releasable engagement between the buckle 74 and the belt 68, the current path closed upon engagement between the buckle 74 and the belt 68, the electrically operated lift system incapable of initiating movement when the current path is open and capable of initiating movement when the current path is closed, the electrically operated lift system capable of continuing movement.

11. **Regarding claim 13**, Tremblay discloses the safety restraint system further comprises a lock, referred to as tab 70, coupled to the buckle 64 and the belt 68, the lock preventing disengagement between the belt 68 and the buckle 64 during movement of the platform 30.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim(s) 2, 3, 5, 6, 16, 18, and 19 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Goodrich U.S. Patent No. 5261779.

14. **Regarding claim 2**, Tremblay discloses the platform comprises side barriers, referred to as opposing sides 34, located near the opposing sides.

15. Tremblay is silent concerning a roll stop located near the outboard end.

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16. Goodrich teaches a platform 113 comprising side barriers, shown in Figure 3, located near an opposing sides and a roll stop 112 located near an outboard end.

17. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

18. **Regarding claim 3**, Tremblay is silent concerning a roll stop biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

19. Goodrich teaches the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off an outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31.

20. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

21. **Regarding claim 5 and 18**, Tremblay is silent concerning an articulated lever assembly coupled to the platform, the lever assembly capable of moving the platform from a substantially horizontal position to a substantially vertical position.

22. Goodrich teaches an articulated lever assembly 129 coupled to the platform 113, the lever assembly 129 capable of moving the platform 113 from a substantially horizontal position to a substantially vertical position, shown in Figure 6C.

23. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an articulated lever assembly as taught by Goodrich to the platform

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disclosed by Tremblay capable of moving the platform from a substantially horizontal position to a substantially vertical position to provide a storage position for the platform.

24. **Regarding claim 6 and 19**, Tremblay is silent concerning a pressure switch coupled to the platform, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform.

25. Goodrich teaches a pressure switch, referred to as a load sensing “disable” switch Column 12, Line 65, coupled to the platform 113 via articulated lever assembly, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform, Column 12, Lines 65-68.

26. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a pressure switch as taught by Goodrich to the platform disclosed by Tremblay to prevent the platform from moving to the vertical position when the passenger is on the platform.

27. **Regarding claim 16**, Tremblay is silent concerning a roll stop located near the outboard end, the roll stop is biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

28. Goodrich teaches a roll stop 112 located near an outboard end, the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31

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29. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

30. Claim(s) 4 and 17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Dupuy et al. U.S. Patent No. 6238169.

31. **Regarding claim 4 and 17**, Tremblay is silent concerning a bridge plate pivotally coupled to the inboard end of the platform and positionable to bridge a gap between the platform and the first surface.

32. Dupuy et al. teaches a bridge plate, referred to as barrier 72 pivotally coupled to the inboard end of the platform 17 and positionable to bridge a gap between the platform 17 and the first surface, referred to as vehicle floor F.

33. It would have been obvious to one of ordinary skill in the art at the time of the invention to pivotally couple a bridge plate as taught by Dupuy et al. to the inboard end of the platform disclosed by Tremblay to bridge a gap between the platform and the first surface.

34. Claim(s) 8, 12, 15, 20-22, and 24 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915.

35. **Regarding claim 8**, Tremblay is silent concerning the safety restraint system further comprises a current flow control device coupled to the current path, the current flow control device comprising a silicon controlled rectifier diode that controls current flow to the motive source

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36. A current flow control device comprising a silicon controlled rectifier diode is notoriously old and well known in the art of electrical circuits to control current flow.

37. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a current flow control device comprising a silicon controlled rectifier diode to the current path disclosed by Tremblay to control current flow to the motive source.

38. **Regarding claim 12**, Tremblay is silent concerning the safety restraint system further comprises a current flow control device coupled to the current path, the current flow control device comprising an silicon controlled rectifier diode that controls current flow to the motive source

39. A current flow control device comprising a silicon controlled rectifier diode is notoriously old and well known in the art of electrical circuits to control current flow.

40. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a current flow control device comprising a silicon controlled rectifier diode to the current path disclosed by Tremblay to control current flow to the electrically operated lift system.

41. **Regarding claim 15**, Tremblay discloses a lift mountable onto a vehicle for transporting a passenger between the floor of the vehicle and the street, the lift comprising: a platform 30 coupled to the vehicle and moveable between the floor and the street, the platform 30 having an inboard and an outboard end, the inboard end closer to the floor than the outboard end; a linkage defined in part by two arms 38, 40 pivotally coupled between the platform 30 and the floor; an electrically operated drive

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system, shown in Figure 5, coupled to the linkage and actuateable to move the linkage; a pair of handrails 60, 62 coupled to the platform 30; a buckle 64 coupled to one of the pair of handrails 60; a belt 68 coupled to the other of the pair of handrails 62 and removeably engaged with the buckle 64, the buckle 64 and the belt 68 having an engaged state and a disengaged state; and a user manipulable switch 72a, 72b coupled to the electrically operated drive system, the switch having an open condition and a closed condition, the drive system incapable of initiating actuation when the switch is in the closed condition and the buckle 64 and belt 68 are in the disengaged state, and the drive system capable of initiating actuation when the switch is in the closed condition and the buckle 64 and belt 68 are in the engaged state.

42. Tremblay is silent concerning the drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state.

43. A drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state is notoriously old and well known in the art of vehicle safety restraints.

44. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state to the lift disclosed by Tremblay to prevent an abrupt stop during accidental release of the belt and buckle.

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45. **Regarding claim 20**, Tremblay discloses the drive system comprises a hydraulic pump 93 in fluid communication with a hydraulic cylinder 24 coupled to the linkage 38, 40.

46. **Regarding claim 21**, Tremblay is silent concerning a current flow control device coupled to the electrically operated drive system, the current flow control device comprising a silicon controlled rectifier diode that controls current flow to the drive system.

47. A current flow control device comprising a silicon controlled rectifier diode is notoriously old and well known in the art of electrical circuits to control current flow.

48. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a current flow control device comprising a silicon controlled rectifier diode to the current path disclosed by Tremblay to control current flow to the electrically operated lift system.

49. **Regarding claim 22**, Tremblay discloses the safety restraint system further comprises a lock, referred to as tab 70, coupled to the buckle 64 and the belt 68, the lock preventing disengagement between the belt 68 and the buckle 64 during movement of the platform 30.

50. **Regarding claim 24**, Tremblay discloses a method of moving a passenger between the ground and a vehicle, the method comprising: moving the passenger onto a platform 30 coupled to the vehicle; buckling a seatbelt 68 about the passenger; actuating a switch 72a, 72b to operate an electrical motive source coupled to the platform 30, the motive source inoperable to move the platform 30 from an at rest

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position without the seatbelt 68 fastened and operable to move the platform 30 from an at rest position with the seatbelt 68 fastened; powering the motive source; lifting the platform 30 and the passenger between the ground and the vehicle; and moving the passenger off the platform 30.

51. Tremblay is silent concerning the motive source capable of being continually operable as the platform is moving regardless of the seatbelt being fastened.

52. A motive source capable of being continually operable regardless of a seatbelt being fastened is notoriously old and well known in the art of vehicle safety restraints.

53. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a motive source capable of being continually operable as the platform is moving regardless of the seatbelt being fastened to the lift disclosed by Tremblay to prevent an abrupt stop during accidental release of the belt and buckle.

54. Claim(s) 10, 14, and 23 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Budd et al. U.S. Patent No. 6077025.

55. **Regarding claim 10, 14, and 23,** Tremblay is silent concerning an alarm coupled to the safety restraint system, the alarm operable to indicate disengagement between the buckle and the belt.

56. Budd et al. teaches an alarm coupled to a safety restraint system, Column 6, Lines 50-53.

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57. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an alarm as taught by Budd et al. to the safety restraint system disclosed by Tremblay to indicate disengagement between the buckle and the belt.

Response to Arguments

58. Applicant's arguments filed 10/12/2006 have been fully considered but they are not persuasive.

59. In response to applicant's argument "that reference numeral 28 designates "side barriers" while reference number 78 designates "bumpers"" although supported by the specification Figure 1 clearly shows the bumpers 78 being referred to as side barriers 28.

60. In response to applicant's argument that claim 1 and 11 are "neither unclear nor indefinite" applicant fails to explain how the motive source is capable of continuing movement of the arm regardless of the current path state once movement is initiated. Paragraph 0037 cited by applicant clearly discloses a closed current path. Although Paragraph 0037 discloses an instance where current path in buckle 204 is opened and the motive source is capable of continuing movement of the arm the current path is still closed since current is allowed to flow through gate G. Not allowing any current to run through the current path would hinder movement of the arm.

61. In response to applicant's argument "Tremblay does not teach or suggest, among things, a motive source capable of continuing movement of an arm regardless of a current path state once movement is initiated" applicant fails to explain how the motive

source is capable of continuing movement of the arm regardless of the current path state once movement is initiated. Applicant's specification supports a motive source capable of continuing movement of the arm during a closed current path state once movement is initiated.

62. In response to applicant's argument "The examiner has not pointed to any teachings or suggestions, either in the references or in the knowledge generally available to one of ordinary skill in the art, that the rate at which vehicular access systems stop moving must somehow be controlled to avoid an "an abrupt stop" as the Examiner implies". The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Firstly, it should be noted that there is no requirement that an express, written suggestion to combine must appear in prior art references before a finding of obviousness. In addition to the teachings of the references themselves, the suggestion to combine references may be found in the nature of the problem to be solved or the knowledge of persons of ordinary skill in the art. Furthermore, while there must be a motivation to make the claimed invention, there is no requirement that the prior art provide the same reason as the applicant to make the claimed invention. In the case of the present application, the motivation comes from knowledge of persons of ordinary skill in the art to prevent unforeseen sudden stops. This is notoriously old and well

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known in the art of switches and are commonly referred to as seat belt ignition interlocks.

63. In response to applicant's argument that Tremblay teaches away from the configuration of claim 15 which is "capable of continuing actuation once begun when... the buckle and belt are in the disengaged state". The argument that Tremblay teaches away from the configuration of claim 15 which is "capable of continuing actuation once begun when... the buckle and belt are in the disengaged state" relies upon the assertion that because Tremblay discusses "in order to be safe, if the restraint is not fastened, there can be no movement whatsoever of the lift", Tremblay teaches away from the configuration of claim 15 which is "capable of continuing actuation once begun when... the buckle and belt are in the disengaged state". This argument is without merit because, while the preferred embodiment of Tremblay does show if the restraint is not fastened, there can be no movement whatsoever of the lift, a statement indicating the desirability of being "capable of continuing actuation once begun when... the buckle and belt are in the disengaged state" in no way criticizes, discredits, or otherwise discourages the solution of being "capable of continuing actuation once begun when... the buckle and belt are in the disengaged state" claimed. Tremblay, therefore, in no way teaches away from the configuration of claim 15.

Conclusion


64. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is 571-272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
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